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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,564	03/30/2004	Robert Hasbun	MP1443 130199	3689

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EXAMINER

HENEGHAN, MATTHEW E

ART UNIT	PAPER NUMBER
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2134

MAIL DATE	DELIVERY MODE
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08/31/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/812,564

Applicant(s)

HASBUN, ROBERT

Examiner

Matthew Heneghan

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application
- ☐ Other: _____

DETAILED ACTION

1. Claims 1-37 have been examined.

Specification

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The specification does not recite a "machine-accessible storage medium" as per claim 28.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 1-11, 13, 14, 16-32, and 34-37 rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 1, 9, 18, 24, 28, 34 is so broad that they preempt an abstract idea and are therefore non-statutory.

Art Unit: 2134

Claims 2-4, 6-8, 10, 11, 13, 14, 16, 17, 19-23, 25-27, 29-32, and 35-37 depend from rejected claims 1, 9, 18, 24, 28, and 34 and include all the limitations of those claim, thereby rendering those dependent claims non-statutory.

Claim 5 recites a method which solely involves a step *not* being performed, rendering as not being a valid method. Claim 5 shall not be treated further on its merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1, 2, and 6-8 rejected under 35 U.S.C. 112, second paragraph, as being incomplete for omitting essential steps, such omission amounting to a gap between the steps. See MPEP § 2172.01. The omitted steps are: Claim 1 discloses a single step whose execution only occurs if a value has a certain setting. No step is recited in which this value is determined such that the step may be executed.

Claims 2 and 6-8 depend from rejected claim 1 and include all the limitations of that claim, thereby rendering those dependent claims as incomplete.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

Art Unit: 2134

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1-4, 6-14 and 16-37 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 7,137,004 to England et al.

As per claims 1-4 and 34-36, England discloses a system in which an upgrade (information update) to a new trusted core(1) (the first portion) or another application may be initiated in a trusted core(0) (the second portion) if the new core is trusted. The second portion reads a value stored by the first portion, a certificate, to verify a trusted state, before loading it (a secure operation). (see column 11, lines 36-52). There are computer-readable media (see column 29, lines 50-53).

As per claim 6, the operation is not performed and appropriate remediation is performed if the verification of the upgrade fails (see column 11, line 66 to column 12, line 6).

As per claims 7 and 37, the network may be wireless (see column 3, lines 20-22) and any new trusted application is received over the network (see column 28, lines 24-30). The trusted application is received by the currently running core, which is the second portion, before becoming instantiated in the first portion.

Regarding claim 8, the second portion inherently has a communications processor, since it would be impossible to otherwise receive the upgrade.

Art Unit: 2134

As per claims 9-11, 16, 18-20, 22-26, and 28, measures of the trusted core for reading may be stored in one-way registers after reset (not modifiable) for accessing by other subsystems (see column 6, lines 10-28).

Regarding claims 12-14, 17, and 29-33, the judgment as to whether an upgrade is to proceed may be contingent on the state of this register.

Regarding claim 21, the ability of the second portion to receive a program signal is not contingent upon the state of the application, so it can be received if the state is not valid.

Regarding claim 27, wireless communications device inherently have antennas.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 7,137,004 to England et al.

England does not disclose an indication being sent if the upgrade failed.

Official notice is given that it is well-known in the art to send error messages in the event of a process failure, so that other processes may take any necessary remedial action.

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the invention of England by sending an error message in the event of failure, as is well-known in the art, so that other processes may take any necessary remedial action.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew E. Heneghan, whose telephone number is (571) 272-3834. The examiner can normally be reached on Monday-Friday from 8:30 AM - 4:30 PM Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kambiz Zand, can be reached at (571) 272-3811.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
P.O. Box 1450
Alexandria, VA 22313-1450

Or faxed to:

(571) 273-3800

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Matthew Heneghan/

August 27, 2007

Patent Examiner (FSA), USPTO Art Unit 2134